

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: <u>12/21/20</u>
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

- v. -

GABRIEL GUILLEN,
a/k/a "Toti,"

Defendant.

- - - - - x

:
: CONSENT PRELIMINARY ORDER
: OF FORFEITURE /
: MONEY JUDGMENT

: S2 17 Cr. 512 (KMW)

WHEREAS, on or about May 9, 2019, GABRIEL GUILLEN, a/k/a "Toti," (the "defendant") was charged in one count of a three-count Superseding Indictment, S2 17 Cr. 512 (KMW) (the "Indictment"), with intentionally and knowingly combining, conspiring, confederating, and agreeing together with others to violate the narcotics laws of the United States by possessing with intent to distribute and distributing one kilograms and more of mixtures and substances containing a detectable amount of heroin, five kilograms and more of mixtures and substances containing a detectable amount of cocaine, and 280 grams and more of mixtures and substances containing a detectable amount of cocaine base, in a form commonly known as "crack," in violation of Title 21, United States Code, Section 846 (Count One);

WHEREAS, the Indictment included a forfeiture allegation as to Count One, seeking forfeiture to the United States, pursuant to Title 21, United States Code, Section 853, of any and all property constituting, or derived from, any proceeds obtained, directly or indirectly, as a result of the offense charged in Count

One of the Indictment and any and all property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, the offense, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of the offense and, *inter alia*, the following specific property:

a) approximately \$21,021 in United States currency, seized from the vicinity of 151-32 20th Street, Queens, New York, on or about August 22, 2017;

(the "Seized Property").

WHEREAS, on or about January 17, 2018, the Seized Property was administratively forfeited to the Government;

WHEREAS, on or about May 10, 2019, the defendant pled guilty to Count One of the Indictment;

WHEREAS, the defendant consents to the entry of a money judgment in the amount of \$21,021 in United States currency representing, pursuant to Title 21, United States Code, Section 853, the amount of proceeds traceable to the offense charged in Count One of the Indictment that the defendant personally obtained; and

WHEREAS, the defendant admits that, as a result of acts and/or omissions of the defendant, the proceeds traceable to the offense charged in Count One of the Indictment that the defendant

personally obtained, with the exception of the Seized Property, cannot be located upon the exercise of due diligence.

IT IS HEREBY STIPULATED AND AGREED, by and between the United States of America, by its attorney Audrey Strauss, Acting United States Attorney, Assistant United States Attorney, Olga I. Zverovich of counsel, and the defendant, and his counsel, Patrick Joyce, Esq., that:

1. As a result of the offense charged in Count One of the Indictment, to which the defendant pled guilty, a money judgment in the amount of \$21,021 in United States currency (the "Money Judgment"), representing the amount of proceeds traceable to the offense charged in Count One of the Indictment that the defendant personally obtained, shall be entered against the defendant.

2. Pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure, this Consent Preliminary Order of Forfeiture/Money Judgment is final as to the defendant, GABRIEL GUILLEN, and shall be deemed part of the sentence of the defendant, and shall be included in the judgment of conviction therewith.

3. The Seized Property shall be applied toward the satisfaction of the Money Judgment.

4. All payments on the outstanding Money Judgment shall be made by postal money order, bank or certified check, made

payable to the United States Marshals Service, and delivered by mail to the United States Attorney's Office, Southern District of New York, Attn: Money Laundering and Transnational Criminal Enterprises Unit, One St. Andrew's Plaza, New York, New York 10007 and shall indicate the defendant's name and case number.

5. The United States Marshals Service is authorized to deposit the payments on the Money Judgment in the Assets Forfeiture Fund, and the United States shall have clear title to such forfeited property.

6. Pursuant to Title 21, United States Code, Section 853(p), the United States is authorized to seek forfeiture of substitute assets of the defendant up to the uncollected amount of the Money Judgment.

7. Pursuant to Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure, the United States Attorney's Office is authorized to conduct any discovery needed to identify, locate or dispose of forfeitable property, including depositions, interrogatories, requests for production of documents and the issuance of subpoenas.

8. The Court shall retain jurisdiction to enforce this Consent Preliminary Order of Forfeiture/Money Judgment, and to amend it as necessary, pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure.

9. The Clerk of the Court shall forward three certified copies of this Consent Preliminary Order of Forfeiture/Money Judgment to Assistant United States Attorney Alexander J. Wilson, Co-Chief of the Money Laundering and Transnational Criminal Enterprises Unit, United States Attorney's Office, One St. Andrew's Plaza, New York, New York 10007.

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10. The signature page of this Consent Preliminary Order of Forfeiture/Money Judgment may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.

AGREED AND CONSENTED TO:

AUDREY STRAUSS
United States Attorney for the
Southern District of New York

By:



12/7/2020

OLGA I. ZVEROVICH
Assistant United States Attorney
One St. Andrew's Plaza
New York, NY 10007
(212)637-2514

DATE

GABRIEL GUILLEN

By:

GABRIEL GUILLEN

DATE

By:

PATRICK JOYCE, ESQ.
Attorney for Defendant
70 Lafayette Street
New York, NY 10013

DATE

SO ORDERED:

Kimba M. Wood
HONORABLE KIMBA M. WOOD
UNITED STATES DISTRICT JUDGE

12/21/20
DATE